

GENERAL ORDINANCE NO. 14, 2015
AS AMENDED

AN ORDINANCE TO AMEND CHAPTER 6, ARTICLE 2, POLICE DEPARTMENT SECTION 6-15 (MERIT PLAN INCORPORATED BY REFERENCE) AND SECTION 6-16 (STATE LAW INCORPORATED BY REFERENCE) OF THE *TERRE HAUTE CITY CODE*.

SECTION 1. *Terre Haute City Code*, Chapter 6, Article 2, Police Department, Section 615 is hereby amended by deletion of the stricken text and insertion of the underlined text as follows. Section 6-16 is deleted as shown.

ARTICLE 2. POLICE DEPARTMENT.
Division II. Police Merit Plan

Sec. 6-15 Merit Plan Incorporated by Reference.

All provisions of the higher statute designated *I.C. § 19-1-29.5-1 through § 19-1-29.5-29* which is the present Merit System for the Terre Haute Police Department, is incorporated herein and adopted as the Public Merit Commission which is the present merit plan for the Terre Haute Police Department. (Gen. Ord. No. 10, 1982, § 1, 12-9-82, Journal of Common Council, pp. 531-532):

The designated provisions of the higher statute designated *I.C. § 19-1-29.5-1 through § 19-1-29.5-29*, which is the present Merit System for the Terre Haute Police Department, are hereby amended as attached hereto as Exhibit "A," a twelve (12) page document, pursuant to *I.C. § 36-8-3.5-1(b)*, and are incorporated herein and adopted as a part of the Public Merit Commission and the present merit plan for the Terre Haute Police Department; however, in reference to *I.C. § 19-1-29.5-25*, as incorporated hereto, it is hereby stipulated that all active employees of the Terre Haute Police Department age sixty five (65) or older, on or before December 31, 2015, shall remain eligible for employment until age seventy (70). Additionally, all individuals actively employed by the Terre Haute Police Department on or before December 31, 2015, who have not or will not complete his or her thirty second (32nd) year of service by the age of sixty five (65), shall continue to be eligible for employment, on the basis of his or her age, to complete thirty two (32) total years of employment. Any subsequent amendment of Title 19 will require a referendum of the active membership of the Terre Haute Police Department. Said referendum will require a majority vote of the active membership of the police department in favor of any proposed further amendment prior to final action by City Council.

Sec. 6-16 State Law Incorporated by Reference.

The text of *I.C. § 36-8-3.5-1 through § 36-8-3.5-23* is attached hereto, made a part hereof and incorporated as part of this Article. (Gen. Ord. No. 10, 1982, § 2, 12-9-82, Journal of Common Council, pp. 531-532)

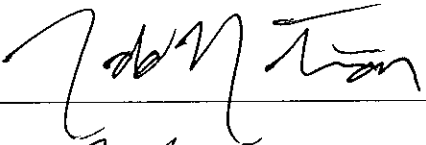
SECTION 2. All ordinances or parts of ordinances in conflict with the provisions of this Ordinance are hereby repealed as of the date this Ordinance takes effect.

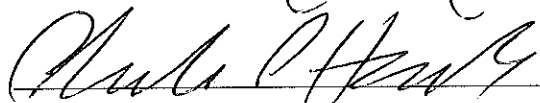
SECTION 2. All ordinances or parts of ordinances in conflict with the provisions of this Ordinance are hereby repealed as of the date this Ordinance takes effect.

WHEREAS, an emergency exists for the immediate taking effect of this Ordinance, the same shall be in full force and effect from and after its passage by the Common Council of Terre Haute, Indiana and approval of the Mayor and publication as required by law.

Introduced by:  Norm Loudermilk, Councilman

Passed in open Council this 10th day of December, 2015.


 Todd Nation, President

ATTEST:  Charles P. Hanley, City Clerk

Presented by me to the Mayor this 11th day of December, 2015.

 Charles P. Hanley, City Clerk

Approved by me, the Mayor, this 11th day of DECEMBER, 2015.

 Duke A. Bennett, Mayor

ATTEST:  Charles P. Hanley, City Clerk

Exhibit "A"

I.C. 19-1-29.5 ET SEQ. (TITLE 19)
AS AMENDED PURSUANT TO GENERAL ORDINANCE

Amended Provisions are in Italics

Title 19 Code
Provision

Amendment

I.C. 19-1-29.5-2
*(Terre Haute
Rev. 2015)*

Civil Service Commission – Membership – Qualifications – Selection – Terms. Within thirty (30) days after this chapter (19-1-29.5-1 - 19-1-25.5-29) becomes effective (July 1, 1972), a civil service commission for the police department shall be appointed, as hereinafter provide, in such cities of the second class. The civil service commission for the police department, hereinafter referred to as the commission shall consist of three (3) members. The members shall be resident voters of the city and persons of good moral character, and shall be known and designated as the civilian members of said commission. The civilian members of the commission shall serve for a term of three (3) years and until their successors shall have been appointed and qualified: Provided, however, That in the first instance, one (1) of the civilian members of the commission shall be appointed for a term of one (1) year by the mayor; one (1) of such civilian members shall be appointed for a term of two (2) years by the common council; one of such civilian members shall be appointed for a term of three (3) years upon nomination by the active membership of the police department and he shall be appointed by the mayor of the city after nominated. In the event any official or body fails to name his/her or its appointment or nominee within the time provided herein, such appointment of nomination to the commission shall be made by the circuit judge of the county involved. The appointment by the common council shall be the person receiving the highest number of votes of the councilmen present and voting at the meeting when the appointment

I.C. 19-1-29.5-3
*(Terre Haute
Rev. 2015)*

Procedure for selection of Commission Member by Members of

Police Department. The Nomination to be made by the membership of the police department shall be made at a meeting specifically called for the purpose by the board of public works and safety, hereinafter referred to in this chapter (19-1-29,5.1 – 19-1-29,5-29) as the board. The board shall give at least one (1) week's notice of said meeting to all active members of the police department by posting the notice of the meeting in at least three (3) prominent places in the central police station. The notice shall designate the time, place and purpose of the meeting. No one shall be entitled to be present at the meeting and exercise the right to vote unless he is an active member of the police department. Active members who are unable to attend any such meeting may vote by written proxy: Provided, That no active member present at any meeting shall be entitled to hold and to vote the proxy of more than one (1) absent member. An active member of the police department shall be selected to act as *chairperson* of the meeting. Voting shall be by secret ballot; and the person receiving the highest number of votes, including all proxy votes, shall be named as the nominee of the police department.

I.C. 19-1-29,5-4
(Terre Haute
Rev. 2015)

I.C. 19-1-29,5-4 Commission Members - Oath of Office - Compensation.

(a) Each commissioner must have been a legal resident of the unit (City of Terre Haute, Indiana) for three (3) consecutive years immediately preceding the commissioner's term and must be a person of good moral character. The legislative body may, upon the recommendation of the Board of Public Works, determine a per diem to be paid to each commissioner for each day of actual service for the commission. A commissioner must be at least twenty-one (21) years of age. A commissioner may not be an active member of a police or fire department or agency and not more than two (2) of the commissioners may be past members of a police or fire department or agency. In addition, a person may not serve on the commission if the person receives any remuneration as salary from the unit (City of Terre Haute, Indiana).

(b) Each commissioner shall take an oath of office to conscientiously discharge the commissioner's duties. A signed copy of the oath shall be filed with the Board of Public Works.

I.C. 19-1-29,5-5
(Terre Haute
Rev. 2015)

Commission Members – Vacancies – Removal – Quorum.

Civilian membership vacancies, for any cause, shall be filed by appointment in the same manner as the appointment of any member of the commission. The *Board of Public Works* may remove any member of the commission at any time for malfeasance, nonfeasance, removal from such city, or inability to serve, which removal shall be under the same rules of procedures that apply to removal of members of the police department of such city. Two (2) civilian members of the commission shall constitute a quorum for the transaction of business.

I.C. 19-1-29.5-6
(*Terre Haute*
Rev. 2015)

Meetings – Majority Vote Required – Officers – Records of Proceedings. The commission shall establish rules for the government of the commission and included in said rules shall be the time and place for the holding of regular monthly meetings and such special meetings throughout the year as may be deemed necessary for it to transact the business of the commission. A lawful transaction of the business of the commission requires a majority vote of the civilian members. Each year the commission shall select, from its civilian members, a president, a vice-president and a secretary. The commission shall make and keep a permanent record of its proceedings.

I.C. 19-1-29.5-7
(*Terre Haute*
Rev. 2015)

Rules and Regulations – Police Appointments – Promotions – Demotions – Ratings for Promotion – Examinations – Performance Ratings – Review. Such commission shall be authorized and directed to prepare, adopt, promulgate, supervise and enforce, rules and regulations as follows:

- (1) To govern the selection, appointment, reappointment and reinstatement of persons to be employed as members of the police department.
- (2) To govern promotions and demotions of members of the police department. Such rules and regulations shall provide that the following three (3) factors shall be the basic considerations of rating a member of the police department for the purpose of promotion: the grade received by a member on a written competitive examination; the past performance record of a member as a member of the police department; the rights acquired by the length of service or tenure; Provide, that the grade received on the written competitive examination shall be considered as fifty percent (50%) of the rating; the past performance record shall be considered as forty percent (40%) of the rating; the seniority rights based on the number of years

of service as a member of the police department at the rate of one-half of one percent (1/2%) for each year of service shall be considered as ten percent (10%) of the rating; Provided further that the name or any means of identification of any member taking the competitive or qualifying examination under the provision of this chapter (19-1-29.51 – 19-1-29.5-29) shall be withheld and made unavailable to the person or persons who grade such examinations and all written competitive examinations shall be treated and held as confidential; provided further, that said examination papers shall be made a part of the permanent file of the individual officer taking the examination and they shall be retained in the chief's office or police headquarters and shall be maintained under the supervision of the chief of police and the individual officer shall have access to this file to examine same at any time. The chief of the police department shall notify each member, in writing, of the grade which such member received on the examination. Such rules and regulations shall further provide that if any member is aggrieved with the grade received on the written competitive examination he shall have the right to appeal in writing to the commission for a review of the grade within then (10) days after the notice of the grade has been sent to him, and the commission, after reviewing the grade and examination papers, shall have the authority to affirm the grade or to correct the grade according to the findings of the review.

(3) To prescribe the manner of determining a rating for the past performance; provided, that such rules and regulations shall contain a provision requiring that performance rating shall be made every six (6) months for each member of the police department by a superior office, as designated by the commission, which ratings shall be submitted to the chief of the police department and kept on file in his/her office or in police headquarters under his/her supervision. The chief of the police department shall notify each member, in writing, of the rating which such member received. Such rules and regulations shall further provide that if any member is aggrieved with the performance rating given to him by his/her superior office he shall have the right to appeal to the commission for a review of the rating within then (10) days after the notice of the rating has been sent to him; and the commission, after reviewing the rating, shall have the authority to affirm the rating or to correct the same.

promotions provided for herein shall be probationary for the first year. At the end of such year, the superior officer shall review the performance of the probationary officer and recommend to the commission whether the promotion shall be made permanent, whether the probationary period should be extended for an additional period not to exceed six (6) months, or whether the promotion should be revoked. The commission shall prepare an appropriate rating chart for the superior officer's use in making his/her report. The commission shall review the report and make its determination as to the disposition to be made. The probationary officer may appear before the commission and be heard on any matter detrimental to him in the superior officer's report. He shall have the right to be represented by counsel. Any action of the commission, other than the making of the promotion permanent may be appealed to the circuit or superior court of the county. In the event the promotion is finally revoked the officer shall not be returned to a rank lower than he held prior to the time of the probationary promotion. The commission shall prepare and publish appeal procedures to be followed for appeals to the commission from the report of the superior officer. Appeals to a court shall be de novo and the appellant may submit new and additional evidence.

I.C. 19-1-29.5-9
(Terre Haute
Rev. 2015)

Initial Promotions made from any rank – Exceptions. Initially, upon the effective date (July 1, 1972) of this chapter, the promotion to any rank, except that of chief of police, and assistant chief of police, shall be open to any member of the department who has passed the competitive examination: Provided, That any such member shall have had two (2) years of service in the department at the time of promotion to the ranks of detective or corporal; five (5) years service at the time of promotion to sergeant; seven (7) years service at the time of promotion to the rank of lieutenant; nine (9) years service at the time of promotion to the rank of captain; and twelve (12) years service at the time of promotion to the rank of inspector.

I.C. 19-1-29.5-10
(Terre Haute
Rev. 2015)

Promotion from next immediate lower rank – Time-in-service requirements for rank – Acting rank – Rules and Regulations furnished to Police Officers. Thereafter, all promotions to any rank shall be from the next immediate lower rank and Provided that the person to be promoted shall have qualified in time of service required by this chapter (19-1-29.5-1 – 19-1-29.5-20): Provided, further, that rank of detective and corporal shall be considered as equal rank, but shall not be considered as a required rank before taking a written

competitive test for the rank of sergeant; that to be qualified in time of service herein, a member of the police department shall have been a patrolman for a minimum of two (2) years before he shall be eligible for the rank of detective or corporal; that a patrolman, detective or corporal shall have been a member of the police department for a period of not less than five (5) years before he shall be eligible for the rank of sergeant; that a sergeant shall have been a member of the police department for a period of not less than seven (7) years before he shall be eligible for the rank of lieutenant; that a lieutenant shall have been a member of the police department for a period of not less than nine (9) years before he shall be eligible for the rank of captain; and that a captain shall have been a member of the police department for a period of not less than twelve (12) years before he shall be eligible for the rank of inspector. Provided, further, that no acting rank shall exceed ninety (90) days; except where an acting rank is created to fill a vacancy because of the illness or military leave of an officer who holds permanent rank or by a vacancy in rank which must be held open because of appointment from such rank to the rank of chief or assistant chief of police. In any event any acting rank shall be filled from the existing eligibility list for such rank to be filled.

Such rules and regulations shall be printed and a copy of said rules and regulations shall be furnished each member of said police department. Any amendments to these rules and regulations shall be printed and furnished to all members of said police department.

I.C. 19-1-29.5-11
(Terre Haute
Rev. 2015)

Promotional Schools – Grading of Graduates – Eligibility Lists – Schools held Biennially. There shall be a promotional school conducted by the commission and written competitive examinations given for the purpose of filling any existing vacancies in the ranks that may occur from time to time. Any member of said police department shall have the right to attend such promotional school; Provided, however, that only those members who are qualified in rank and length of service as by this chapter (19.1-29.5-1 – 19.1-29.5-29) shall be given a written final examination covering topics taught in the school and placed on the eligibility list by the grade received.

The eligibility list shall be maintained for a period of two (2) years, at which time there shall be another promotional school, for the purpose of establishing a new eligibility list, conducted by the commission, and a promotional school conducted by the commission every two (2) years thereafter.

I.C. 19-1-29.5-12

*(Terre Haute
Rev. 2015)*

Outside Instructors – Materials – Equipment. The commission may employ instructors who are not members of the police department of such city and the commission is authorized to purchase materials and equipment and allow other necessary expenditures for the purpose of instructing applicants and members of the police department.

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*I.C. 19-1-29.5-13
(Terre Haute
Rev. 2015)*

I.C. 19-1-29.5-13 Authority for Appointment or Removal of Police Officers - Removal of Chief or Assistant Chief – Rank of Chief and Assistant After Term.

The commission shall have the power and authority to appoint or remove any member of the police department, but the mayor of such city shall have the sole power of appointing and removing any member of the department as chief of police and assistant chief of police of the department in accordance with the law pertaining to such cities: Provided that an applicant for appointment as police chief or assistant chief must have at least five (5) years of continuous service with the police department of that city immediately before the appointment, and remain compliant with applicable age requirements for employment, and that the removal of any member of the police department as chief or assistant chief of said department shall be deemed as removal from rank only, and not from the police department: Provided further, That the office of superintendent of police and the office of chief of police shall be considered as one and the same office. Provided further, That upon expiration of the term of any chief of police and assistant chief of police department in any city, such person shall be appointed by the commission to the rank in the police department which he held at the time of his appointment as chief or assistant chief of the department, Provided, That in the event (of) the chief or assistant chief of the department during his/her tenure of office has qualified in accordance with the promotional procedure as prescribed by the commission in its rules and regulations for any rank in the police department which is higher than the rank which he held at the time of his/her appointment as chief or assistant chief of the department, he shall, upon expiration of his/her term as chief, be appointed by the commission to the rank for which he has qualified under the promotion procedure.

*I.C. 19-1-29.5-14
(Terre Haute)*

Rev. 2015)

I.C. 19-1-29.5-14 Qualifications of Applicants.

- (a) To be appointed to the department, an applicant must be:
- (1) a citizen of the United States;
 - (2) a high school graduate or equivalent; and
 - (3) at least twenty-one (21) years of age, but under thirty-six (36) years of age.

Provided, That the age requirement shall not apply to those members of the police department who have been previously employed in said department.

I.C. 19-1-29.5-15
(Terre Haute
Rev. 2015)

Convicted Felon Ineligible. An applicant for an appointment, reappointment or reinstatement shall be ineligible if he has been found guilty of a felony in any court without the same having been reversed by a court of appeals.

I.C. 19-1-29.5-16
(Terre Haute
Rev. 2015)

Applications – Filing – Evidence of Birth – Eligibility for Pension Fund Required.

All applications for an appointment, reappointment or reinstatement to such department are required to be filed with the commission and accompanying said application shall be a duly authenticated birth certificate of the applicant, or the applicant shall produce satisfactory evidence of the date and place of his/her birth. The applicant is further required to file with said application a certificate from a physician appointed by the board of trustees of the police pension fund for such city, certifying that the applicant is eligible for pension benefits.

I.C. 19-1-29.5-17
(Terre Haute
Rev. 2015)

Preliminary Physical Examination Required.

All applicants for appointment, reappointment or reinstatement to the police department shall be required to pass a preliminary examination for the purpose of determining their physical condition and general aptitude for service as a police officer. This preliminary examination shall be conducted in the manner and form as may be provided in the rules and regulations adopted by the commission. The examination to determine the physical condition (agility) of a candidate shall not discriminate on the basis

of sex. Upon the conclusion of such preliminary examination, the results thereof shall be reduced to writing and filed of record with the commission. If the commission shall find from such preliminary examination that the applicant does not possess the qualifications which in the opinion of the commission fit the applicant for appointment, reappointment, or reinstatement, the applicant shall be rejected by the commission.

I.C. 19-1-29.5-18
(*Terre Haute*
Rev. 2015)

I.C. 19-1-29.5-18 regarding Policemen's Schools is stricken in its entirety.

I.C. 19-1-29.5-19
(*Terre Haute*
Rev. 2015)

Grading for Appointment, Reappointment or Reinstatement.

The applicants shall then be rated on the selection criteria and testing methods adopted by the commission, which may include mental alertness, character, habits, and reputation. The commission shall adopt rules for grading the applicants, including the establishment of a passing score. The commission shall place the name of applicants with passing scores on an eligibility list by the order of their scores and shall certify the list to the safety board.

I.C. 19-1-29.5-20
(*Terre Haute*
Rev. 2015)

Duration of Eligible List – Eligible Age Limit.

If an applicant for original appointment reaches his thirty-sixth birthday, his/her name shall be removed from the eligibility list. Applicants remain on the list for two (2) years from the date of certification. After two (2) years a person may reapply as an applicant.

I.C. 19-1-29.5-21
(*Terre Haute*
Rev. 2015)

Vacancies Filled from eligible List – Physical Condition - Character. Whenever a vacancy occurs in the police department, the commission upon written request of the chief of such department, shall appoint the person having the highest grade on the eligible list of that particular department to fill such vacancy; the person appointed shall be enrolled as a member of such police department: Provided, however, that before such person is enrolled as a member of such

department he shall be required to pass such physical examination as may now or hereafter be required by law or required by pension fund law, and he must still be of good character.

I.C. 19-1-29.5-22
(Terre Haute
Rev. 2015)

Initial Probationary Period.

All appointments are probationary for a period not to exceed one (1) year. If the commission finds, upon the recommendation of the department during the probationary period, that the conduct or capacity of the probationary member is not satisfactory, the commission shall notify him/her in writing that he/she is being reprimanded, that he/she is being suspended, or that he/she will not receive a permanent appointment. If a member is notified that he/she will not receive a permanent appointment, his/her employment immediately ceases. Otherwise, at the expiration of the probationary period the member is considered regularly employed.

I.C. 19-1-29.5-23
(Terre Haute
Rev. 2015)

Solicitation of Favor for Appointment Renders Applicant Ineligible. Any applicant who personally or through any other person solicits any member of the commission to favor his/her appointment or reinstatement to such force, shall be thereby rendered ineligible for all time to any such appointment to the police department.

I.C. 19-1-29.5-24
(Terre Haute
Rev. 2015)

19-1-29.5-24. Dismissals, Suspensions and Punishments.

Dismissals, suspensions for more than ten (10) days and punishments of members of the police department shall be by the commission and shall be for the causes, except as herein otherwise provided, and under the same rules of procedure including the right of appeal as are now or may hereafter be provided by laws pertaining to a municipality of the size of the City of Terre Haute, including I.C. 36-8-3.5-17.

I.C. 19-1-29.5-25
(Terre Haute
Rev. 2015)

Retirement Age. Upon arriving at the age of sixty-five (65), it shall be mandatory for a member of the police department to retire from

said department, Providing, however, that any member of the police department that is of the age of sixty-five (65) or over at the time of the taking effect of this chapter (July 1, 1972) shall be permitted to serve to end of the calendar year.

I.C. 19-1-29.5-26
(*Terre Haute*
Rev. 2015)

19-1-29.5-26. Reprimands and Suspensions by Chief - Notice to Commission - Dismissals, Suspensions, and Punishments by Commission.

The Chief of Police may impose reprimands and suspensions from duty without pay for a period not exceeding ten (10) days. If such action is taken by the Chief of Police, such Chief shall within forty-eight (48) hours thereafter notify the Commission in writing of such action. An officer which is the subject of a suspension from duty without pay for a period not exceeding ten (10) days may request an appeal of such suspension by the Commission, which request must be in compliance with all requirements of the Manual of Rules of the Terre Haute Police Department Merit Commission. A decision to consider a requested appeal of a suspension without pay for a period not exceeding ten (10) days is purely discretionary by the Commission. All other dismissals, suspensions and punishments greater than a suspension without pay exceeding ten (10) days shall be for cause in accordance with the provisions of this chapter, as amended.

I.C. 19-1-29.5-27
(*Terre Haute*
Rev. 2015)

Reduction in Force – Temporary Leave without pay – Reinstatement – Physical Examination. If, after the taking effect of this chapter (July 1, 1972) and for reasons of economy, it shall be deemed necessary by the common council or the board of any such city, to reduce the number of police officers of the police department, then such reduction shall be made by granting temporary leave of absence without pay or financial obligation to such city, to the last person or persons, including probationers, that have been appointed to such department in numerical order, commencing with the last person appointed and continuing in such order until desired reduction is effected. In the event that the department affected by such reduction shall again be increased in number, the members of such department, who have been granted such leave of absence without pay, under the terms of this section, shall be reinstated before any person on the eligible list is appointed to such department. Said reinstatements shall commence with the last person granted a leave without pay: Provided,

however, that such former member, who shall have been granted leave of absence as in this section provided, shall be reinstated upon passing only a physical examination, satisfactory to the commission and the trustees of the pension fund of such department, anything in this chapter to the contrary notwithstanding.

I.C. 19-1-29.5-28
(*Terre Haute*
Rev. 2015)

Existing Members and Rank Retained Temporarily –
Examinations to Determine Permanent Rank. All persons who are members of any police department of any such city of the second class at the time of the effective date (July 1, 1972) of this chapter shall hold their respective ranks temporarily. The commission members shall, within a reasonable time not to exceed six (6) months after their appointment, hold open competitive examinations for all members of the police department for the purpose of determining whether or not the person so examined shall either retain his/*her* rank, be reduced in rank, or advanced in rank.

I.C. 19-1-29.5-29
(*Terre Haute*
Rev. 2015)

Funds for Necessary Commission Expenses. From the time such cities of second class commence operating under the provisions of this chapter (19-1-29.5-1 – 19-1-29.5-29) to the end of the current fiscal year, there shall be paid out of the general fund of such cities, on claims properly filed, all the necessary expenses of said commission, including salaries and operating costs.